

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.1:05-cv-10606-WGY

SHERYL SATTERTHWAITE, as Executrix)
of the Estate of DENNIS SATTERTHWAITE,)
Plaintiff)
)
vs.)
)
UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

DEFENDANTS CATHERINE SULLIVAN, R.N.C, AND UHS OF WESTWOOD
PEMBROKE, INC.'S MOTION TO OBTAIN COURT ORDERS TO OBTAIN RECORDS
FROM CARE PROVIDERS REFERENCED IN PLAINTIFF'S DECEDENT'S JOURNALS

The Defendants, Catherine Sullivan, R.N.C., and UHS of Westwood Pembroke, Inc., respectfully request that this Honorable Court Order South Shore Mental Health, HRI Counseling, Harvard Vanguard Medical Associates, Carney Hospital, Southeastern Psychiatric Associates, and Good Shepherd's Maria Droste Services, to release any and all medical and/or mental health treatment records regarding the Plaintiff's decedent, Dennis Satterthwaite, to their attorneys. Proposed Orders are attached to this Motion for the Court's convenience. In support of this Motion, the Defendants state the following:

1. This is a wrongful death case in which the Plaintiff, Sheryl Satterthwaite, as the Executrix of the Estate of Dennis Satterthwaite, claims that the Defendants provided negligent care and treatment to her husband with respect to his depression, and that their negligence caused Mr. Satterthwaite to commit suicide on May 30, 2002.

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2. In response to a written discovery request, the Plaintiff recently produced copies of Mr. Satterthwaite's journals. Several of these journals, which appear to have been written in 2002, include contact information, such as names, phone numbers, and/or directions, for South Shore Mental Health, HRI Counseling, Harvard Vanguard Medical Associates, Carney Hospital, Southeastern Psychiatric Associates, and Good Shepherd's Maria Droste Services. Additionally, one journal entry refers to an appointment which Mr. Satterthwaite had scheduled with Good Shepherd's Maria Droste Services.

3. Based on the experience of the Defendants' attorney and knowledge of HIPAA, medical care providers in Massachusetts will not release psychiatric records of a patient without a release from the patient or his representative or a Court Order. See Affidavit of Amy J. DeLisa, attached as Exhibit A.

4. In prior discussions regarding discovery in this case, the Plaintiff's attorney has stated that his office does not provide releases for medical records to defense counsel. See id.

5. The Defendants request that this Court issue Orders requiring these providers to produce any records they may have regarding Mr. Satterthwaite. Although it is unclear whether Mr. Satterthwaite actually obtained any medical treatment from these care providers, the journal entries indicate that he may have done so, and that he had at least one appointment scheduled with one of these providers.

6. Further, the Plaintiff has made her decedent's mental condition an element of the claims in this case. See Complaint. Accordingly, the statutory privileges of M.G.L. c. 233, § 20B and M.G.L. c. 112, § 135A do not apply.

Wherefore, the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., respectfully request that this Honorable Court Order South Shore Mental Health, HRI Counseling, Harvard Vanguard Medical Associates, Carney Hospital, Southeastern Psychiatric Associates, and Good Shepherd's Maria Droste Services, to produce copies of Mr. Satterthwaite's records to defense counsel. The Defendants agree to provide copies of all records they receive in response to these Orders to all counsel.

LOCAL RULE 37.1 CERTIFICATION

I, Amy J. DeLisa, certify that, in compliance with Local Rule 37.1, I conferred in good faith with the Plaintiff's counsel, David McCormick, on February 16, 2007, regarding my intention to file the present motion. Attorney McCormick had previously informed me that it is the policy of his firm not to provide releases for medical records.

/s/ Amy J. DeLisa

JANET J. BOBIT, BBO# 550152

AMY J. DeLISA, BBO# 645004

Attorneys for Defendants,

UHS of Westwood Pembroke, Inc.,

and Catherine Sullivan, R.N.C.

HUNTER & BOBIT, P.C.

83 Atlantic Avenue

Boston, MA 02110

(617) 371-1440

DATED: February 28, 2007

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.1:05-cv-10606-WGY

SHERYL SATTERTHWAITE, as Executrix)
of the Estate of DENNIS SATTERTHWAITE,)
Plaintiff)
)
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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

AFFIDAVIT OF AMY J. DeLISA IN SUPPORT OF DEFENDANTS CATHERINE
SULLIVAN, R.N.C. AND UHS OF WESTWOOD PEMBROKE, INC.'S MOTION TO
OBTAIN COURT ORDERS TO OBTAIN RECORDS FROM CARE PROVIDERS
REFERENCED IN PLAINTIFF'S DECEDENT'S JOURNALS

1. I, Amy J. DeLisa, am an attorney licensed in the Commonwealth of
Massachusetts and an associate of Hunter & Bobit, P.C., which has been retained
to represent the Defendants, UHS of Westwood Pembroke, Inc., and Catherine
Sullivan, R.N.C.
2. In my experience, Massachusetts medical care providers will not provide counsel
with copies of a patient's psychiatric treatment records without a release from the
patient, the patient's representative, or a Court Order.
3. Based on my experience with HIPAA, Massachusetts care providers require a
Court Order or release prior to providing copies of a patient's treatment records to
counsel.

4. On or about February 16, 2007, I spoke with Attorney McCormick regarding my intention to file the present motion. Attorney McCormick had previously informed me that it is the policy of his firm not to provide releases for medical records.

Signed under the pains and penalties of perjury this 28th day of February, 2007.

/s/ Amy J. DeLisa
Amy J. DeLisa

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Plaintiff)
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vs.)
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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **South Shore Mental Health** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

By the Court,

Dated: _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.1:05-cv-10606-WGY

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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **HRI Counseling** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

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Dated: _____

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO.1:05-cv-10606-WGY

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Plaintiff)
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vs.)
)
UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **Harvard Vanguard Medical Associates** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **Carney Hospital** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

By the Court,

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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **Southeastern Psychiatric Associates** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

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UNITED STATES OF AMERICA,)
UHS OF WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPAS, and,)
CATHERINE SULLIVAN, R.N.C.,)
Defendants)

ORDER

It is hereby ordered that **Good Shepherd's Maria Droste Services** or the person or persons in charge of its records, permit the Defendants, Catherine Sullivan, R.N.C. and UHS of Westwood Pembroke, Inc., or the Attorneys of the Defendants, Janet J. Bobit & Amy J. DeLisa, Hunter & Bobit, P.C., 83 Atlantic Avenue, Boston, Massachusetts 02110, to inspect the records concerning or relating to Dennis Satterthwaite and to furnish said Defendants or said Attorneys copies of said records upon the payment of a reasonable fee, including those subject to the provisions of G.L. c. 111, §§ 70E, 70F; G.L. c. 112, §§ 12S, 129A, 135; G.L. c. 119, §51A-E, G.L. c. 123, §36; G.L. c. 233, §§ 20A, 20B, 20J; 21 U.S.C. § 1174, 42 U.S.C. § 290dd-2 or 42 C.F.R. Part 2, except that said copies of the records shall not contain any list of the nature and treatment of any disease, a record of which is required to be kept under the provisions of G.L., (Ter. Ed.) c. 111, §119.

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UNITED STATES OF AMERICA,)
UHS of WESTWOOD PEMBROKE, INC.,)
ARTHUR PAPPAS, and,)
CATHERINE SULLIVAN,)
Defendants)

CERTIFICATE OF SERVICE

I hereby certify that this **DEFENDANTS CATHERINE SULLIVAN, R.N.C., AND UHS OF WESTWOOD PEMBROKE, INC.'S MOTION TO OBTAIN COURT ORDERS TO OBTAIN RECORDS FROM CARE PROVIDERS REFERENCED IN PLAINTIFF'S DECEDENT'S JOURNALS; AND, AFFIDAVIT OF AMY J. DeLISA IN SUPPORT OF DEFENDANTS CATHERINE SULLIVAN, R.N.C. AND UHS OF WESTWOOD PEMBROKE, INC.'S MOTION TO OBTAIN COURT ORDERS TO OBTAIN RECORDS FROM CARE PROVIDERS IDENTIFIED IN PLAINTIFF'S DECEDENT'S JOURNALS** filed through ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on February 28, 2007.

/s/ Amy J. DeLisa

JANET J. BOBIT, BBO# 550152
AMY J. DeLISA, BBO# 645004
Attorneys for Defendants,
UHS of Westwood Pembroke, Inc.
and Catherine Sullivan
HUNTER & BOBIT, P.C.
83 Atlantic Avenue
Boston, MA 02110
(617) 371-1440

DATED: February 28, 2007